

REMARKS

The foregoing amendments and these remarks are responsive to the Office Action mailed January 12, 2005 in connection with the above-identified application.

Claim Rejections 35 U.S.C. § 112

In the Action, claims 1-11 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner stated that claim 1 recites both “heat sensors” in line 2 and “at least two temperature sensors” in lines 7-8. In response to the Examiner’s rejection, the Applicant has amended “heat sensors” in line 2 to read --temperature sensors-- in order to maintain consistent use of terminology and eliminate any ambiguity.

The Examiner also stated that in claim 1, line 14, the phrase “said one of said group” is confusing since there is only one group cited. In the foregoing amendments (made in response to the rejection under 35 U.S.C. § 102), the phrase “said one of said group” has been deleted.

The Applicant respectfully request reconsideration and withdrawal of the rejection of claims 1-11 under 35 U.S.C. § 112 in view of the foregoing amendments.

Claim Rejections 35 U.S.C. § 102

In the Action, claims 1 was rejected under 35 U.S.C. 102(b) as being unpatentable over Weissbrich et al., U.S. Patent No. 5,259,814. Claims 12 and 16 were rejected under 35 U.S.C. § 102(e) as being anticipated by Rackham et al, U.S. Patent Appln. Pub. No. US2003/0222775A1.

Weissbrich et al. discloses a system for ventilating the interior of a motor vehicle (by automatic operation of the windows, sunroof, A/C, fans etc.) which relieves the driver of having to manipulate the controls. Weissbrich et al. includes a number of temperature sensors placed both inside and outside the vehicle, and a programmable microprocessor which allows one to input a desired temperature. Weissbrich et al. automatically activates the fan and AC and opens the window and sunroof when the average interior temperature exceeds a preprogrammed threshold temperature. The Examiner based the rejection under 35 U.S.C. § 102 of claim 1 based on the fact that the Applicant's invention as set forth in claim 1 sets forth the limitation "a control head which activates one of a group of vehicle components consisting of the fan, horn, siren, emergency light headlights, windows, or engine."

In the foregoing amendments, the Applicant has amended claim 1 to recite: "a control head which activates an *alarm*" with the "alarm" defined as activation of the "horn, siren, emergency lights, or siren." The instantly amended claim 1 thus recites only those vehicle components operable to create an aural or visual signal in order to indicate an emergency situation, i.e. an "alarm." The instantly amended claim 1 does not recite features relating to vehicle ventilation such as opening of windows, or operation of a fan or the AC. The Applicant submits that the instantly amended claim 1 does not read on the Weissbrich et al. reference, and therefore respectfully requests the reconsideration and withdrawal of rejection of claim 1 under 35 U.S.C. § 102 in view of Weissbrich et al.

Further, while the Weissbrich system uses a temperature averaging program similar to that of Applicant's invention, the Applicant believes that it would not be obvious to one skill in the art to modify Weissbrich et al. to include an emergency alarm function in order to approximate the Applicant's claimed invention. Weissbrich et al. is directed to a passive means of providing a comfortable interior temperature for occupants of a vehicle while the vehicle is engaged. A stated objective of the Weissbrich et al. system is that it provides automatic activation of fans, the AC, and window so that the driver does not have to manipulate controls while driving. The Weissbrich et al. system is a "luxury" feature for an automobile cooling system for a vehicle which is being operated by a driver. Weissbrich et al. is not directed to providing an alarm system for extreme temperatures in stationary vehicle and does disclose or suggest such a embodiment. There would be no motivation to add an alarm to Weissbrich et al. as such a modification would be nonsensical in view of the operation principles of Weissbrich et al.

Moreover, the Weissbrich et al. system does not include the following features recited in the instantly amended claim 1:

...continuously monitoring the vehicle battery voltage to determine if a negative rate of change in vehicle battery voltage exists and activating said alarm if said rate exceeds a preset limit, and

monitoring each sensor to detect failure in operation, and activating said alarm in the event of sensor failure.

The Applicant therefore respectfully requests allowance of the instantly amended claim 1.

In the Action, claims 12 and 16 were rejected under 35 U.S.C. § 102(e) as being anticipated by Rackham et al. In the foregoing amendments, the Applicant has amended claim 12 to recite the following limitation: “at least two temperature sensors adapted to be placed in the vehicle in a widely dispersed arrangement inside the passenger compartment” and a microprocessor programed to “compute an average of said temperature data from said at least two temperature sensors, compare said average with said temperature alarm threshold.” These features are not taught or suggested by Rackham et al. The Applicant therefore submits that the instantly amended claim 12 does not read on Rackham et al., and requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e) of claim 12 in view of Rackham et al.

In view of the foregoing amendments, it is respectfully submitted that the instantly amended claim 12 is in condition for allowance. It is further submitted that claim 16 is allowable because it depends from an allowable base claim, and withdrawal of the rejection of claim 16 is under 35 U.S.C. § 102(e) is therefore respectfully requested.

Claim Rejections 35 U.S.C. § 103

In the Action, claims 2 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weissbrich et al. in view of Teague, U.S. Patent No. 5,793,284. Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Weissbrich et al. in view of Rackham et al.

In the Action, the Examiner stated that Weissbrich et al., Teague, and Rackham et al. are all from the same field of endeavor, however this is not the case. Weissbrich et al. is not an alarm system at all, but rather a system for automatic adjustment of a temperature-controlling devices in an occupied vehicle for optimum passenger comfort. Weissbrich et al. is comparable to an thermostat with multiple adjustable parameters, and is in no way an emergency alarm system. Neither Weissbrich et al., Teague nor Rackham et al. disclose an alarm system which activates vehicle components like the horn, siren, emergency lights and headlights to create aural and visible signal as set forth in instantly amended independent base claim 1. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka* 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art" *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988)

In view of the foregoing, the Applicant requests reconsideration and withdrawal of the rejection of claims 2, 3 and 9 under 35 U.S.C. § 103(a).

Claim 4 was rejected under 35 U.S.C. § 103 as being unpatentable over Weissbrich et al. in view of Rackham et al. as applied to claim 3, and in further view of Dulin et al, U.S. Patent Appln. Pub. No. US2002/0161501A1. It is again pointed out that Weissbrich et al. is not an alarm system, and that Weissbrich et al. and Rackham et al. are not in the same field of endeavor.

Since Weissbrich et al. is not an alarm system, it would not have been obvious to modify Weissbrich et al. in view of an alarm system. Dulin et al. teach a manual reset button for resetting the system. It would not have been obvious to incorporate a manual reset as taught by Dulin et al. into the Weissbrich et al. system to, as stated by the Examiner, “allow the operator to take appropriate actions.” This is meaningless as applied to Weissbrich et al. because it is not an alarm system, and moreover has an intended function of eliminating the need for any operator action. The Weissbrich et al. system is designed to operate continuously and transparently without driver manipulation, and would never need to be “reset.”

In view of the foregoing, the Applicant requests reconsideration and withdrawal of the rejection of claim 4 under 35 U.S.C. § 103(a).

Claims 5-7, 10 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weissbrich et al. in view of Van Bosch et al. U.S. Patent Appln. Pub. No. US2003/0098784A1. Van Bosch teaches the use of reporting an alarm to a portable electronic unit. The Examiner states that it would have been obvious to modify Weissbrich et al. to include reporting the alarm to a portable electronic device. However, as noted above, Weissbrich et al. is not an alarm device. Weissberg et al. does not generate any type of alarm. Since there are no alarms to report in the Weissbrich et al. system, it would not be logical to modify Weissbrich et al. to report an alarm to a portable device as in Van Bosch.

In view of the foregoing, the Applicant requests reconsideration and withdrawal of the rejection of claims 5-7, 10 and 11 under 35 U.S.C. § 103(a).

Claims 5-7, 10 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weissbrich et al. in view of Van Bosch et al., and Rodriguez, U.S. Patent No. 6,496,106. Rodriguez teaches the practice of monitoring the engine to determine if it is inoperative. The Examiner states that it would have been obvious to one having ordinary skill in the art to apply this teaching to Weissbrich et al. However, the Weissbrich et al. system is designed to keep the occupants at a comfortable temperature *while the vehicle is being driven*, and it is therefore submitted that it if the engine were to suddenly become inoperative this would readily apparent to the vehicle occupants. It would therefore not be obvious to so modify the Weissbrich et al. system to provide an indicator of engine failure.

In view of the foregoing, the Applicant requests reconsideration and withdrawal of the rejection of claim 8 under 35 U.S.C. § 103(a).

In the Action, the Examiner cited the following rejections of claims depending from base claim 12:

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Rackham et al. in view of Thornton U.S. Patent No. 5,793,201. Claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rackham et al. in view of Dulin et al., U.S. Patent Appln. Pub. No. US2002/0161501A1. Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Rackham et al. in view of Losey, U.S. Patent Appln. Pub. No. US2002/0109583A1.

Also in the Action, independent Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Rackham et al. in view of Tegge et al., U.S. Patent No. 6,252,406.

In the foregoing amendments, independent claims 12 and 18 were amended to include the following limitations:

at least two temperatuer sensors, said at least two temperature sensors adapted to be placed in the vehicle in a widely dispersed arrangement inside the passenger compartment, and a microprocessor connected to said at least two temperature sensors, said microprocessor programmed to compute an average of said temperature data from said at least two temperature sensors and compare said average with a temperature alarm threshold . . .

Claims 13-15 and 17 depend from claim 12. Rackham et al., Thornton, Dulin et al., Losey, Tegge et al. do not teach the practice of providing at least two temperature sensors inside a vehicle in a widely dispersed arrangement and continuously calculating an average temperature therefrom. This feature is therefore not present in any of the proposed combinations in the above-noted rejections of claims 13-15 and 17-18. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka* 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art" *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988)

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Since all claim limitations are not taught by the cited prior art for claims 13-15 and 17-18, the Applicant requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) of claims 13-15 and 17-18.

Drawing Objections

In the Action, the Examiner objected to the drawings because heat sensors were not shown. The Examiner stated that the Applicant was required to provide suitable legends under 37 CFR 1.83(a) and 1.84(g). The Applicant submits herewith corrected replacement sheets which are believed to satisfy all requirements.

Prior Art Made of Record

The Applicant has reviewed the prior art made of record and not relied upon. The Applicant respectfully submits the present invention is patentable thereover.

Conclusion

The Applicant respectfully submits that the application now stands in condition for allowance. The Examiner is requested to telephone the undersigned in order to discuss any further objections, allowing Applicant to expedite a response.

Respectfully submitted,

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Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 1. This sheet replaces the original sheet including Fig. 1. In Figure 1, legends identifying the heat sensors have been added as required by the Examiner.

Attachment: Replacement Sheet